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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,041	09/05/2000	Leonard Pinchuk	93-P0241US08[209.1580001]	9622
54953	7590	11/09/2009		
BROOKS, CAMERON & HUEBSCH, PLLC 1221 NICOLLET AVENUE SUITE 500 MINNEAPOLIS, MN 55403			EXAMINER	
			SEVERSON, RYAN J	
			ART UNIT	PAPER NUMBER
			3731	
MAIL DATE	DELIVERY MODE			
11/09/2009	PAPER			

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/657,041	PINCHUK ET AL.
	<b>Examiner</b> Ryan J. Severson	<b>Art Unit</b> 3731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(o).

**Status**

1) Responsive to communication(s) filed on 03 August 2009.

2a) This action is **FINAL**.      2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-30 and 40-42 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) 1-30 is/are allowed.

6) Claim(s) 40 and 42 is/are rejected.

7) Claim(s) 41 is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_

5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/03/2009 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 40 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhodes (5,122,154) in view of Herweck et al. (5,197,976) and Lunn (5,476,506).** Rhodes discloses a multi-component graft comprising an expandable trunk component (30) surround a liner (28) having a cylindrical body portion.

4. However, Rhodes does not disclose the liner has two leg portions that abut and are secured to one another. Attention is drawn to Herweck et al., who teach making a graft component with a cylindrical body portion and two abutting leg portions (as in figure 1) to allow the graft component to feed both branches of a bifurcated vessel. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to have structured the liner of Rhodes in the manner taught by Herweck et al. to allow the prosthesis to be used to feed both branches of a bifurcated vessel, instead of only in a straight vessel.

5. Further, the combination of Rhodes and Herweck et al. do not disclose cylindrical supportive leg components placed within the liner leg components. Attention is drawn to Lunn, who teaches the use of supportive stent components (36 and 38) placed within, but not connected to, a graft component with their ends protruding from the graft (see figure 4) to secure and seal the graft relative to the vessel. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used supportive leg components in the liner leg components of the combination of Rhodes and Herweck et al. to ensure the leg components are secured and sealed relative to the vessel.

6. Examiner notes with regard to Lunn, in the embodiment relied upon (i.e. figure 4), the stents appear to be deployed into the graft after the graft is placed at the treatment site (see column 4, lines 26-32).

7. Regarding claim 42, the combination of Rhodes, Herweck et al., and Lentz does not disclose the supportive components are self-expanding. However, making stent components self-expanding is a well-known art-recognized alternative equivalent to making stent components balloon expandable. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the stent components of the combination self-expanding instead of balloon expanding, as is well-known in the art.

***Response to Arguments***

8. Applicant's arguments with respect to claims 40-42 have been considered but are moot in view of the new ground(s) of rejection.

***Allowable Subject Matter***

9. Claims 1-30 are allowed in this reissue application.

10. Claim 41 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ryan J. Severson whose telephone number is (571) 272-3142. The examiner can normally be reached on Monday - Friday 8:30-5:00.

12. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on (571) 272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ryan J. Severson/  
Examiner, Art Unit 3731  
11/5/09

/Anhtuan T. Nguyen/  
Supervisory Patent Examiner, Art Unit 3731